

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

Mary Sue Braun

Plaintiff,

v.

Case No. 2:04-CV-00160-JPS

Wells Fargo & Company

Defendant.

AMENDED COMPLAINT

Now comes the Plaintiff Mary Sue Braun, by her attorney, Donal M. Demet and alleges as follows:

1. Plaintiff Mary Sue Braun is an individual residing at 8530 N. Regent Road, Fox Point, WI 53217.

2. Defendant Wells Fargo & Company is a corporation doing business in the State of Wisconsin, whose registered agent is CSC- Lawyers Incorporating Service Company, 25 W. Main Street Madison, WI 53703.

FIRST CAUSE OF ACTION- BREACH OF CONTRACT

3. In March of 1998, Defendant, formerly known as Norwest Corporation, entered into an agreement with the Plaintiff. This agreement was in writing and signed by the Plaintiff as well as the Defendant. A copy of this agreement is attached hereto as Exhibit A and incorporated herein by reference.

4. Plaintiff has substantially performed the terms and conditions of the agreement.

5. Paragraph 9 of the Agreement requires the Defendant to pay to the Plaintiff the sum of \$110,000.00.

6. Defendant has breached the agreement by failing to pay to the Plaintiff the sum due and owing to her under the agreement.

7. By reason of these breaches Plaintiff has sustained damages in an amount to be determined at trial.

SECOND CAUSE OF ACTION- VIOLATION OF STATUTES SECTION 109

8. The Plaintiff hereby realleges the allegations contained in Paragraphs 1-7 above.

9. That the Defendant's actions as set forth above constitute a violation of Section 109 of the Wisconsin Statutes.

10. That pursuant to Wisconsin Statute Section 109.11(2)(a), the Defendant is indebted to the Plaintiff as and for a civil penalty in addition to the wages payable as set forth above.

11. That in addition, Section 109 of the Wisconsin Statutes as interpreted in *Jacobson v. Wisconsin Tool Companies*, (588 N.W. 2d 67, 222 Wis. 2d 384 (Wis. App. 1998), and *Jackman v. WMAC Investment Corp.*, 610 F. Supp. 290 (E.D. Wis., 1985), *aff'd* 809 F. 2d 377 (7th Cir. 1987) provides for Plaintiff's recovery of the expenses of collection, including litigation expenses and reasonable attorney's fees.

WHEREFORE, Plaintiffs demand Judgment against the Defendant

a. Damages on the First Cause of Action in an amount to be determined at trial;

b. Damages in the form of pre-judgment interest on the sums due and owing on the First Cause of Action;

c. Interest from the date of commencement of this action as well as an award of the actual costs, including reasonable actual attorney's fees incurred by the Plaintiff in prosecuting this action;

d. Damages on the Second Cause of Action in an amount to be determined at trial.

e. An award of civil penalties, costs of litigation and attorney's fees under Wis. Stat. Sec. 109.

f. and for such other relief as is just and equitable.

Dated September 1, 2004.

By: /S/ Donal M. Demet

Donal M. Demet
State Bar ID No. 1014814
Demet & Demet, S.C.
815 N. Cass St.
Milwaukee, WI 53202
(414) 291-0800

CERTIFICATE OF SERVICE OF AMENDED COMPLAINT

I, Donal M. Demet, an attorney, hereby certify that on September 1, 2004, I did serve a true copy of the foregoing Amended Complaint on Angela McKenzie and Emery K. Harlan, attorneys of record for the Defendant in the above-entitled action, by causing same to be placed in the United States mail, postage prepaid, and addressed to Gonzalez, Saggio & Harlan, 225 E. Michigan; 4th Floor, Milwaukee, Wisconsin 53202.

Dated September 1, 2004.

By: /S/ Donal M. Demet

St. Bar # 1014814